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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,639	10/25/2005	Satoru Nagamoto	515.034US01	1201

34206 7590 04/16/2008

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EXAMINER	
SAFAIPOUR, BOBBAK	
ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
04/16/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@fogglaw.com

Office Action Summary	Application No.	Applicant(s)	
	10/554,639	NAGAMOTO ET AL.	
	Examiner	Art Unit	
	BOBBAK SAFAIPOUR	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-12 and 14-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-12 and 14-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/21/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/21/2007 has been entered.

Claims 2, 13, and 17-80 have been cancelled. **Claims 1, 3-12, and 14-16** are still pending in the present application.

Information Disclosure Statement

The information disclosure statement submitted on 11/21/2007 has been considered by the Examiner and made of record in the application file.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 3-12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ihara (European Patent Application EP 1 137 210 A2)** in view of **Mackintosh et al (US Patent #6,317,784 B1)** and in further view of **Rindsberg et al (US 2003/0026344 A1)**.

Consider **claim 1**, Ihara discloses an updating system of music information comprising: a broadcasting apparatus (figures 1 and 8; Music/Information Provider Device) having a broadcasting side memory unit (figures 1 and 8; Memory means) and a transmission unit (paragraphs 27-28; read as Output Control Means for playing digital music decoded at the Operation Process Means) for broadcasting the music information on a predetermined broadcast

channel (figures 1, 7 and 8, paragraphs 11-12, 34, 71-80; The Operation Process Means broadcasts various music/information contents via Broadcasting means. Broadcast receiving receives analog broadcast such as AM/FM broadcast.); a terminal having a reception unit for receiving a broadcast wave of said predetermined broadcast channel (figures 1 and 8, paragraph 71, read as Broadcast Receive Means of the information terminal receives the broadcast), an extraction unit for extracting said music information from the received broadcast wave (figures 1 and 8, paragraphs 29 and 71; When the broadcast Receiving Means receives the broadcast, the Selection Means selects the data), and an update unit for updating the music information in the reception side memory unit with the extracted music information (figures 5a and 5b, paragraphs 60-61, 82, 86).

Ihara fails to disclose a broadcasting side memory unit for storing music information including at least one of track data and music database information; said update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically on predetermined days and, when detecting that it is not the same as the already received information, stores the information in said reception side memory unit; and wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts.

In related art, Mackintosh et al disclose a systems and methods for providing enhanced features for the delivery of broadcast material to a user. The broadcast material is delivered to the user in segments such as, tracks of music, in a radio broadcast. A database can be maintained that allows sample tracks to be stored. Data server uses the data from the program provider to

retrieve the associated materials from the data storage database. (abstract, figure 7, col. 15, lines 25-35). Furthermore, Mackintosh et al. discloses wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts. (column 5, lines 7-30, column 8, and figures 1 and 5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Mackintosh et al into the teachings of Ihara so that the supplemental materials can be provided to a user in a coordinated fashion with the broadcast materials being delivered.

Furthermore, in related art, Rindsberg et al discloses an update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically (paragraph 26; read as frequently) on predetermined days (figures 5-6, paragraph 24-26; a desired content database 512 that has for example a favorite song or other descriptors) and, when detecting (paragraph 24; read as user presses a single key to input their preferences) that it is not the same as the already received information, stores the information in said reception side memory unit (figure 5; paragraph 24; storage memory 510 to selectively store descriptors containing user desired content).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Rindsberg et al into the teachings of Ihara and Mackintosh to enable selection of channels containing desired content.

Consider **claim 14**, Ihara discloses a terminal having an updating function of music information, comprising: an extraction unit for extracting said music information from the broadcast wave of a predetermined broadcast channel transmitted from a broadcasting apparatus;(figures 1 and 8, paragraphs 29 and 71; When the broadcast Receiving Means receives the broadcast, the Selection Means selects the data); and an updating unit for updating the (figures 5a and 5b, paragraphs 60-61, 82, 86).

Ihara fails to disclose reception side memory unit for storing music information including at least one of track data and music database information; an update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically on predetermined days and when detecting that it is not the same as the already received information, stores the information in said reception side memory unit; and wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts.

In related art, Mackintosh et al disclose a systems and methods for providing enhanced features for the delivery of broadcast material to a user. The broadcast material is delivered to the user in segments such as, tracks of music, in a radio broadcast. A database can be maintained that allows sample tracks to be stored. Data server uses the data from the program provider to retrieve the associated materials from the data storage database. (abstract, figure 7, col. 15, lines 25-35) Furthermore, Mackintosh et al. discloses wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts. (column 5, lines 7-30, column 8, and figures 1 and 5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Mackintosh et al into the teachings of Ihara so that the supplemental materials can be provided to a user in a coordinated fashion with the broadcast materials being delivered.

Furthermore, in related art, Rindsberg et al discloses an update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically (paragraph 26; read as frequently) on predetermined days (figures 5-6, paragraph 24-26; a desired content database 512 that has for example a favorite song or other descriptors) and when detecting (paragraph 24; read as user presses a single key to input their preferences) that it is not the same as the already received information, stores the information in said reception side memory unit (figure 5; paragraph 24; storage memory 510 to selectively store descriptors containing user desired content).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Rindsberg et al into the teachings of Ihara and Mackintosh to enable selection of channels containing desired content.

Consider **claim 15**, Ihara discloses an updating method of music information in an updating system of music information provided with a broadcasting apparatus and a terminal comprising: in said broadcasting apparatus, a step of broadcasting music information (abstract) and broadcasting side memory unit (figures 1 and 8; Memory means) on a predetermined broadcast channel, in said terminal provided with a reception side memory unit for storing said music information (figures 1 and 8), a step of receiving the broadcast wave of said predetermined

broadcast channel (figures 1 and 8, paragraph 71, read as Broadcast Receive Means of the information terminal receives the broadcast), a step of extracting said music information from the broadcast wave of said received predetermined broadcast channel (figures 1 and 8, paragraphs 29 and 71; When the broadcast Receiving Means receives the broadcast, the Selection Means selects the data), and a step of updating the information in said reception side memory unit with said extracted music information (figures 5a and 5b, paragraphs 60-61, 82, 86).

Ihara fails to disclose broadcasting music information including at least one track data and music database information stored in a broadcasting side memory unit; said update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically on predetermined days and when detecting that it is not the same as the already received information, stores the information in said reception side memory unit; and wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts.

In related art, Mackintosh et al disclose a systems and methods for providing enhanced features for the delivery of broadcast material to a user. The broadcast material is delivered to the user in segments such as, tracks of music, in a radio broadcast. A database can be maintained that allows sample tracks to be stored. Data server uses the data from the program provider to retrieve the associated materials from the data storage database. (abstract, figure 7, col. 15, lines 25-35) Furthermore, Mackintosh et al. discloses wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts. (column 5, lines 7-30, column 8, and figures 1 and 5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Mackintosh et al into the teachings of Ihara so that the supplemental materials can be provided to a user in a coordinated fashion with the broadcast materials being delivered.

Furthermore, in related art, Rindsberg et al discloses an update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically (paragraph 26; read as frequently) on predetermined days (figures 5-6, paragraph 24-26; a desired content database 512 that has for example a favorite song or other descriptors) and, when detecting (paragraph 24; read as user presses a single key to input their preferences) that it is not the same as the already received information, stores the information in said reception side memory unit (figure 5; paragraph 24; storage memory 510 to selectively store descriptors containing user desired content).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Rindsberg et al into the teachings of Ihara and Mackintosh to enable selection of channels containing desired content.

Consider **claim 16**, Ihara discloses a music information updating method of music information in a terminal provided with a reception side memory unit (figures 1 and 8; Memory means) comprising: a step of receiving said music information broadcasting on a predetermined broadcast channel (figures 1 and 8, paragraph 71, read as Broadcast Receive Means of the information terminal receives the broadcast); a step of extracting said music information from

said received predetermined broadcast channel (figures 1 and 8, paragraphs 29 and 71; When the broadcast Receiving Means receives the broadcast, the Selection Means selects the data); and a step of updating the music information in said reception side memory unit with said extracted music information (figures 5a and 5b, paragraphs 60-61, 82, 86).

Ihara fails to disclose a reception side memory unit for storing the music information including at least one track data and music database information from a broadcasting apparatus; said update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically on predetermined days and when detecting that it is not the same as the already received information, stores the information in said reception side memory unit, and wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts.

In related art, Mackintosh et al disclose a systems and methods for providing enhanced features for the delivery of broadcast material to a user. The broadcast material is delivered to the user in segments such as, tracks of music, in a radio broadcast. A database can be maintained that allows sample tracks to be stored. Data server uses the data from the program provider to retrieve the associated materials from the data storage database. (abstract, figure 7, col. 15, lines 25-35) Furthermore, Mackintosh et al. discloses wherein said predetermined broadcast channel is: either of a specific channel in radio broadcasts, a specific channel in TV broadcasts, or a specific channel in digital broadcasts. (column 5, lines 7-30, column 8, and figures 1 and 5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Mackintosh et al into the teachings of Ihara so that the

supplemental materials can be provided to a user in a coordinated fashion with the broadcast materials being delivered.

Furthermore, in related art, Rindsberg et al discloses an update unit once holds the music information or a newly added difference in music information transmitted from said broadcasting apparatus side constantly repeated or periodically (paragraph 26; read as frequently) on predetermined days (figures 5-6, paragraph 24-26; a desired content database 512 that has for example a favorite song or other descriptors) and, when detecting (paragraph 24; read as user presses a single key to input their preferences) that it is not the same as the already received information, stores the information in said reception side memory unit (figure 5; paragraph 24; storage memory 510 to selectively store descriptors containing user desired content).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Rindsberg et al into the teachings of Ihara and Mackintosh to enable selection of channels containing desired content.

Consider **claim 3** and **as applied to claim 1 above,** Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said music database information is comprised of identifying information for identifying the recording media and music menu information corresponding to the identifying information, and the music menu information includes at least one of title names, album names, artist names, and genres. (Mackintosh et al: col. 10, line 64 to col. 11 line 8; col. 12, lines 55-63)

Consider **claim 4** and **as applied to claim 1 above,** Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said terminal is further provided with a track data request transmission unit for transmitting a request that the music information including the desired track data be added to said reception side memory unit and the identifying information of the related terminal to said transmission apparatus (Ihara: figures 7 and 9, paragraphs 70 and 81), and said broadcasting apparatus is further provided with a charge processing unit for charging the related terminal on the basis of said track data request from said terminal and the identifying information of said terminal (Mackintosh et al: figures 7, col. 14, lines 4-65).

Consider **claim 5** and **as applied to claim 1 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said broadcasting apparatus is further provided with a schedule transmission unit for broadcasting a schedule list indicating a schedule for broadcasting said track data. (Mackintosh et al: col. 5, lines 37-51)

Consider **claim 6**, and **as applied to claim 1 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said broadcasting apparatus is provided with a selection unit for selecting said music information to be transmitted from said broadcasting side memory unit or selecting said music information to be stored in said broadcasting side memory unit. (Ihara: figures 1 and 8, paragraphs 12, 29, and 71)

Consider **claim 7**, and **as applied to claim 6 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said selection unit selects said music information on the basis of at least any of various popularity ranking information, number of times of broadcasts, new music releases, and power play information provided from music providers. (Ihara: paragraphs 80 and 81)

Consider **claim 8**, and **as applied to claim 6 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said selection unit selects said music information on the basis of a request that the music information including the desired track data from said terminal be added to said reception memory unit. (Ihara: figures 1 and 8, paragraphs 12, 29, and 71)

Consider **claim 9** and **as applied to claims 1 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said transmission unit broadcasts said music information on said predetermined broadcast channel constantly repeatedly or periodically on predetermined days. (Mackintosh et al: col. 5, lines 37-51)

Consider **claim 10** and **as applied to claims 6 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said selection unit transmits either of all said music information of said broadcasting side memory unit or a difference in music information newly added to said broadcasting side memory unit to said transmission unit. (Ihara: figures 1 and 8, paragraphs 12, 29, and 71)

Consider **claim 11** and **as applied to claim 10 above,** Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said updating unit rewrites said reception side memory unit with received music information when receiving all music information of said broadcasting side memory unit or extracts the music information which is not recorded in the reception side memory unit from the received music database information as the difference in music information and stores the same in the reception side memory unit. (Ihara: figure 5a, 5b, paragraphs 60-61, 82, 86)

Consider **claim 12**, and **as applied to claim 10 above**, Ihara, as modified by Mackintosh et al and Rindsberg et al, disclose the claimed invention wherein said updating unit stores the difference in music information added to said reception side memory unit newest when receiving the difference in music information added newest to said broadcasting side memory unit. (figures 5a, 5b, paragraphs 60-61, 82 and 86)

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
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Hand-delivered responses should be brought to

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Bobbak Safaipour/
Examiner, Art Unit 2618

April 10, 2008

/Matthew D. Anderson/
Supervisory Patent Examiner, Art Unit 2618